

CHAPTER 482

COMMERCIAL FISHING

Referred to in §456A.14, 456A.24, 481A.1, 481A.130, 481A.134, 481A.135, 483A.32

[P]

This chapter not enacted as a part of this title;
transferred from chapter 109B in Code 1993

[P] See §481A.134 and 481A.135 for point system and additional penalties

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482.1 Authority of the commission.

1. The natural resource commission shall observe, administer, and enforce this chapter. The natural resource commission may adopt and enforce rules under chapter 17A as necessary to carry out this chapter.

2. The natural resource commission may:

a. Remove or cause to be removed from the waters of the state any aquatic species that in the judgment of the commission is an underused renewable resource or has a detrimental effect on other aquatic populations. All proceeds from a sale of these aquatic organisms shall be credited to the state fish and game protection fund.

b. Issue to any person a permit or license authorizing that person to take, possess, and sell underused, undesirable, or injurious aquatic organisms from the waters of the state. The person receiving a permit or license shall comply with the applicable provisions of this chapter.

c. Authorize the director to enter into written contracts for the removal of underused, undesirable, or injurious organisms from the waters of the state. The contracts shall specify all terms and conditions desired. Sections 482.4, 482.6, and 482.14 do not apply to these contracts.

d. Prohibit, restrict, or regulate commercial fishing and commercial turtle harvesting in any waters of the state.

e. Revoke the license of a licensee for up to one year if the licensee has been convicted of a violation of chapter 481A, 482, or 483A. A licensee shall not continue commercial fishing while a license issued by the natural resource commission or issued by another state is under revocation or suspension.

f. Regulate the numbers of commercial fishers and commercial turtle harvesters and the amount, type, seasonal use, mesh size, construction and design, manner of use, and other criteria relating to the use of commercial gear for any body of water or part thereof.

g. Establish catch quotas, seasons, size limits, and other regulations for any species of commercial fish or turtles for any body of water or part thereof.

h. Designate by listing species as commercial fish or turtles.

i. Designate any body of water or its part as protected habitat and restrict, prohibit, or otherwise regulate the taking of commercial fish and turtles in protected habitat areas.

3. Employees of the department may lift and inspect any commercial gear at any time and may inspect commercial catches, commercial markets, and landings, and examine sale and purchase records of commercial fishers, commercial turtle harvesters, commercial roe harvesters, commercial turtle buyers, and commercial roe buyers upon demand.

4. Employees of the department may seize and retain as evidence any illegal fish or

turtles, or any illegal commercial gear, or any other personal property used in violation of any provision of the Code, and may confiscate any untagged or illegal commercial gear as contraband.

86 Acts, ch 1141, §1

C87, §109B.1

87 Acts, ch 115, §19

C93, §482.1

2009 Acts, ch 144, §21

Referred to in §481A.67

482.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Boundary waters*” means the waters of the Mississippi, Missouri, and Big Sioux rivers.
2. “*Commercial fish helper*” means a person who is licensed by the state to assist a commercial fisher or a commercial roe harvester in operating commercial gear or in taking, attempting to take, possessing, or transporting commercial fish, roe species, roe, or turtles.
3. “*Commercial fisher*” means a person who is licensed by the state to take, attempt to take, possess, transport, sell, barter, or trade turtles or turtle eggs, commercial fish except roe species, or fish parts except roe.
4. “*Commercial fishing*” means taking, attempting to take, possessing, or transporting of commercial fish or turtles for the purpose of selling, bartering, trading, offering, or exposing for sale.
5. “*Commercial gear*” means the capturing equipment used by commercial fishers, commercial roe harvesters, and commercial turtle harvesters.
6. “*Commercial roe buyer*” means a person who is licensed by the state to engage in the business of buying, selling, bartering, or trading of roe and roe species.
7. “*Commercial roe harvester*” means a person who is licensed by the state to engage in the harvest and sale, barter, or trade of roe and roe species.
8. “*Commercial species*” means species of fish and turtles which may be lawfully taken and sold by commercial fishers, commercial roe harvesters, and commercial turtle harvesters, as established by rule by the commission.
9. “*Commercial turtle buyer*” means a person who is licensed by the state to engage in the business of buying, selling, bartering, or trading commercial turtles or turtle eggs.
10. “*Commercial turtle harvester*” means a person who is licensed by the state to take, attempt to take, possess, transport, and sell, barter, or trade commercial turtles or turtle eggs.
11. “*Commercial turtle harvesting*” means taking, attempting to take, possessing, or transporting of commercial turtles or turtle eggs for the purpose of selling, bartering, trading, offering, or exposing for sale.
12. “*Commercial turtle helper*” means a person who is licensed by the state to assist a commercial turtle harvester in operating commercial gear, or in taking, attempting to take, possessing, or transporting commercial turtles or turtle eggs.
13. “*Constant attendance*” means the presence of a commercial fisher whenever commercial gear is in use.
14. “*Director*” means the director of the department of natural resources, and the director’s duly authorized assistants, deputies, or agents.
15. “*Game fish*” means all species and size categories of fish not included as “commercial species” or minnows.
16. “*Inland waters of the state*” means all public waters of the state excluding the boundary waters of the Mississippi, Big Sioux, and Missouri rivers.
17. “*Licensed commercial gear*” means any commercial gear that is licensed as provided in this chapter and that, when in use, has the proper tags attached as provided by this chapter.
18. “*Nonresident or alien*” means a person who does not qualify as a resident as defined in section 483A.1A.
19. “*Resident*” means a person as defined in section 483A.1A.
20. “*Roe*” means fish eggs.
21. “*Roe species*” means fish harvested for their eggs. Roe species include but are not

limited to shovelnose sturgeon and bowfin and any other fish defined as roe species by the commission by rule.

22. “*Waters of the state*” means all of the waters under the jurisdiction of the state.

86 Acts, ch 1141, §2

C87, §109B.2

91 Acts, ch 170, §1

C93, §482.2

2009 Acts, ch 144, §22

482.3 Commercial fishing — where permitted.

It is unlawful to use commercial gear in the taking of commercial fish, turtles, and mussels from the waters of the state, except as otherwise provided by statute or administrative rules of the commission.

86 Acts, ch 1141, §3

C87, §109B.3

C93, §482.3

Referred to in §805.8B(3e)

[P] For applicable scheduled fine, see §805.8B, subsection 3, paragraph e

482.4 Commercial licenses and gear tags.

1. A person shall not use or operate commercial gear unless an individual is at the site where the commercial gear is being operated who possesses an appropriate valid commercial license. A commercial license is valid from the date of issue to January 10 of the succeeding calendar year.

2. A commercial roe harvester shall possess a valid commercial fishing license and a valid commercial roe harvester license.

3. Commercial fishers and commercial turtle harvesters shall provide and affix weather-resistant gear tags to each piece of gear in use. Each weather-resistant gear tag shall plainly show the name, address, and commercial license number of the licensee and whether the gear is fish or turtle gear.

4. Annual license fees are as follows:

a. Commercial fisher, resident	\$ 200.00
b. Commercial fisher, nonresident	\$ 400.00
c. Commercial fish helper, resident	\$ 50.00
d. Commercial fish helper, nonresident	\$ 100.00
e. Commercial roe buyer, resident	\$ 250.00
f. Commercial roe buyer, nonresident	\$ 500.00
g. Commercial roe harvester, resident	\$ 100.00
h. Commercial roe harvester, nonresident	\$3,500.00
i. Commercial turtle buyer, resident	\$ 200.00
j. Commercial turtle buyer, nonresident	\$ 400.00
k. Commercial turtle harvester, resident	\$ 100.00
l. Commercial turtle harvester, nonresident	\$ 400.00
m. Commercial turtle helper, resident	\$ 50.00
n. Commercial turtle helper, nonresident	\$ 100.00

5. Commercial fish and turtle gear tags are required on the following units of commercial gear:

- a. Seine.
- b. Trammel net.
- c. Gill net.
- d. Entrapment nets.
- e. Commercial trotline.
- f. Commercial turtle trap.

86 Acts, ch 1141, §4

C87, §109B.4

89 Acts, ch 119, §1; 89 Acts, ch 192, §1, 2; 91 Acts, ch 170, §2, 3

C93, §482.4

2009 Acts, ch 144, §23; 2012 Acts, ch 1118, §10 – 13

Referred to in §452A.17, 482.1, 805.8B(3m)

[P] For applicable scheduled fines, see §805.8B, subsection 3, paragraph m

482.5 Commercial gear.

It is lawful for a person who is legally licensed to harvest commercial fish or commercial turtles to use commercial gear of a design, construction, size, season, and all other criteria established by the commission for taking those species of fish and turtles designated by the commission by rule.

86 Acts, ch 1141, §5

C87, §109B.5

C93, §482.5

2009 Acts, ch 144, §24

Referred to in §805.8B(3d)

[P] For applicable scheduled fine, see §805.8B, subsection 3, paragraph d

482.6 Tagging of commercial gear.

Each trotline shall have the tags affixed to one end. Each hoop net, slat net, trap net, and turtle trap shall have the appropriate tag affixed to the end nearest the pot. Each gill net and each trammel net shall have the tags affixed to the float line nearest the shore stake, but when fished under ice, the tags shall be affixed to the float line nearest the take-out hole. Each seine shall have the tags affixed to one end.

86 Acts, ch 1141, §6

C87, §109B.6

C93, §482.6

Referred to in §482.1, 805.8B(3b)

[P] For applicable scheduled fines, see §805.8B, subsection 3, paragraph b

482.7 Gear attendance.

1. A commercial fisher, commercial turtle harvester, or commercial roe harvester licensee must be present when commercial gear is operated. A commercial fish helper or commercial turtle helper shall not operate commercial gear except under the direct supervision of a commercial fisher, commercial turtle harvester, or commercial roe harvester. A nonresident commercial turtle helper is licensed only to assist a licensed nonresident commercial turtle harvester. Commercial gear shall be lifted and emptied of catch as provided by the rules of the commission. Constant attendance by the commercial fisher of seines, trammel nets, and gill nets is required when the gear is fished by driving, drive-seining, seining, floating, or drifting methods. Officers of the commission may grant a reasonable extension of gear attendance intervals only upon the request of a commercial fisher, commercial turtle harvester, or commercial roe harvester specifying why such an extension is necessary.

2. For the purposes of this section, “*direct supervision*” means that a commercial fisher, commercial turtle harvester, or commercial roe harvester must be in the same boat, within hand-signal distance, or within vocal communication distance, without the help of any electronic or amplifying device, of the commercial fish helper or commercial turtle helper being supervised.

86 Acts, ch 1141, §7

C87, §109B.7

C93, §482.7

2009 Acts, ch 144, §25

Referred to in §482.9, 805.8B(3d)

[P] For applicable scheduled fines, see §805.8B, subsection 3, paragraph d

482.8 Baits.

1. It is lawful for licensed commercial fishers, commercial turtle harvesters, and commercial roe harvesters to pursue, take, possess, and transport any commercial fish or their parts, bait fish, turtles, frogs, salamanders, leeches, crayfish, or any other aquatic invertebrates for bait unless otherwise prohibited by law.

2. It is lawful to use any member of the following families as bait fish in boundary

waters: Cyprinidae, the minnows; Catostomidae, the suckers; Umbridae, the mudminnows; Clupeidae, the herrings; Hiodontidae, the mooneyes; Amiidae, the bowfin unless otherwise prohibited by law.

3. It is lawful to use green sunfish, *Lepomis cyanellus*, and orange-spotted sunfish, *Lepomis humilis*, for bait fish.

4. It is lawful to use minnow seines for taking bait in the boundary waters. Minnow seines may not exceed fifty feet in length and eight feet in depth.

86 Acts, ch 1141, §8

C87, §109B.8

C93, §482.8

2009 Acts, ch 144, §26

Referred to in §805.8B(3d)

[P] For applicable scheduled fines, see §805.8B, subsection 3, paragraph d

482.9 Unlawful methods.

It is unlawful:

1. To use commercial gear which is not in accordance with this chapter or the rules of the commission.

2. To use commercial gear within nine hundred feet from a navigation dam on the boundary waters.

3. To use commercial gear within three hundred feet from the mouth of a tributary stream emptying into the boundary waters.

4. For a person to lift or to fish licensed commercial gear of another person, except when under the direct supervision of the licensee as provided in section 482.7.

5. To employ chemicals, electricity, or explosives into the water for taking fish, turtles, or freshwater mussels except as authorized by the director.

6. To have in one's possession game fish or other fish, turtles, or mussels deemed illegal by other provisions of law while engaged in commercial activities. A fish caught in commercial fishing that is not lawful to possess shall be handled with wet hands and immediately released under water with as little injury as possible.

7. To block or inhibit navigation through channels with commercial gear unless a minimum of three feet of water depth is maintained over float lines of any entanglement gear or leads to trap nets. Gear shall not block over one-half the width of a navigable channel if there is less than three feet of water over the gear.

86 Acts, ch 1141, §9

C87, §109B.9

C93, §482.9

2009 Acts, ch 144, §27; 2011 Acts, ch 34, §110

Referred to in §805.8B(3e)

[P] For applicable scheduled fines, see §805.8B, subsection 3, paragraph e

482.10 Commercial fishing licenses.

1. All persons who commercially take, attempt to take, possess, transport, sell, barter, trade, or buy commercial fish or their parts shall possess an appropriate, valid commercial fishing license. This subsection does not apply to an individual who buys commercial fish or their parts from a commercial fisher for personal consumption.

a. A commercial fisher license is required to operate commercial gear and to take, attempt to take, possess, process, transport, or sell any commercial fish, commercial turtles, or turtle eggs.

b. A commercial fish helper license is required to assist a commercial fisher or commercial roe harvester in operating commercial gear and in taking, attempting to take, possessing, or transporting commercial fish, roe species, roe, commercial turtles, or turtle eggs. A commercial fish helper is not permitted to buy, sell, barter, or trade commercial fish, roe species, roe, commercial turtles, or turtle eggs. A commercial fish helper license is not required for a person under sixteen years of age to assist a commercial fisher as provided in this paragraph "b".

c. A commercial roe harvester license is required to harvest, possess, transport, or sell roe

or roe species or their parts. A commercial roe harvester is not permitted to buy, barter, or trade roe or roe species unless in possession of a valid roe buyer license. A commercial roe harvester shall sell roe or roe species only to a commercial roe buyer licensed in this state.

d. A commercial roe buyer license is required to buy, barter, or trade roe or roe species for resale.

2. All intrastate and interstate shipments of commercial fish, turtles, turtle eggs, or roe or roe species, must be accompanied by a receipt which shows the name and address of the seller, date of sale, and the species, numbers, and pounds of the fish, roe species, roe, turtles, or turtle eggs being sold.

86 Acts, ch 1141, §10

C87, §109B.10

C93, §482.10

2009 Acts, ch 144, §28; 2011 Acts, ch 34, §111

Referred to in §805.8B(3d)

[P] For applicable scheduled fine, see §805.8B, subsection 3, paragraph d

482.11 Turtles and turtle eggs.

1. All persons who commercially take, attempt to take, possess, transport, or sell turtles or turtle eggs shall possess an appropriate, valid commercial license. This subsection does not apply to an individual who buys turtles or turtle eggs from a commercial fisher or a commercial turtle harvester for personal consumption.

a. A commercial turtle harvester license is required to operate commercial gear and to take, attempt to take, possess, transport, sell, barter, or trade commercial turtles or turtle eggs. Nonresident commercial turtle harvesters shall harvest commercial turtles only from the boundary waters.

b. A commercial turtle helper license is required to assist a commercial turtle harvester in operating commercial gear, and in taking, attempting to take, possessing, or transporting commercial turtles or turtle eggs. A commercial turtle helper is not permitted to buy, sell, barter, or trade commercial turtles or turtle eggs. A commercial turtle helper license is not required for a person under sixteen years of age to assist a commercial turtle harvester as provided in this paragraph “b”.

c. A commercial turtle buyer license is required to engage in the business of buying, bartering, or trading commercial turtles or turtle eggs.

d. A commercial fisher license entitles commercial fishers to operate any licensed commercial gear and to take, attempt to take, possess, and sell, barter, or trade turtles or turtle eggs taken with such commercial gear.

2. It is unlawful to take, possess, or sell any species of turtles except those designated by the commission by rule.

86 Acts, ch 1141, §11

C87, §109B.11

89 Acts, ch 192, §3

C93, §482.11

2009 Acts, ch 144, §29, 30

Referred to in §805.8B(3n)

[P] For applicable scheduled fine, see §805.8B, subsection 3, paragraph n

482.12 Freshwater mussels. Repealed by 2009 Acts, ch 144, § 48. See § 483A.28.

482.13 Reciprocity for commercial fishing and commercial turtle fishing.

1. Reciprocal commercial fishing and commercial turtle fishing privileges are contingent upon a grant of similar privileges by the appropriate state to residents of this state.

2. The commission may negotiate commercial reciprocity agreements with other states.

86 Acts, ch 1141, §13

C87, §109B.13

91 Acts, ch 170, §5, 6

C93, §482.13

482.14 Reports and records required — inspections.

1. All commercial fishers, commercial turtle harvesters, commercial turtle buyers, commercial roe harvesters, and commercial roe buyers shall submit a monthly report supplying all information requested on forms furnished by the department. Reports must be received by the department no later than the fifteenth day of the following month.

2. Commercial fishers shall utilize a dated receipt with at least two parts, with one original and one copy of each receipt, that contains the species, number, and pounds of fish or turtles sold, bartered, or traded. Commercial fishers shall retain a copy of each receipt for five years following the transaction. A purchaser of commercial fish or turtles shall retain a copy of the receipt for as long as the purchaser is in possession of the fish or turtles.

3. Commercial turtle harvesters shall utilize a dated receipt with at least two parts, with one original and one copy of each receipt, that contains the species, number, and pounds of turtles sold, bartered, or traded. Commercial turtle harvesters shall retain a copy of each receipt for five years following the transaction. A purchaser of commercial turtles shall retain a copy of the receipt for as long as the purchaser is in possession of the turtles.

4. Commercial turtle buyers shall maintain accurate records of all transactions. The records shall contain the date, number, weight, and species of turtles purchased, the name and address of the seller, and the county or pools where the turtles were taken. The records shall be updated monthly. Such records shall be available for examination by employees of the department upon request. A commercial turtle buyer shall only purchase turtles from a licensed commercial fisher or commercial turtle harvester.

5. Commercial roe buyers shall utilize a receipt with at least two parts, with one original and at least one copy of each receipt, for each purchase of commercial roe species and roe. The original of the receipt shall be kept by the commercial roe buyer and a copy of the receipt shall be given to the commercial roe harvester selling the commercial roe species or roe. Commercial roe buyers and commercial roe harvesters shall retain such receipts for five years following the date of the transaction.

6. Facilities and records of commercial fish buyers, commercial turtle buyers, commercial roe harvesters, and commercial roe buyers shall be open at all reasonable times for inspection by any conservation officer.

86 Acts, ch 1141, §14

C87, §109B.14

91 Acts, ch 170, §7

C93, §482.14

2009 Acts, ch 144, §31

Referred to in §482.1

482.15 Penalties.

A person who violates this chapter or a rule issued under this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8B, subsection 3, paragraph “e”. However, the scheduled fine specified in section 805.8B, subsection 3, paragraph “e”, does not apply to a violation of this chapter or a rule for which another scheduled fine is specified in section 805.8B, subsection 3.

86 Acts, ch 1141, §15

C87, §109B.15

C93, §482.15

2000 Acts, ch 1203, §23; 2001 Acts, ch 130, §1; 2001 Acts, ch 137, §5

Referred to in §805.8B(3e)